

Ordinance No.: 06-02
Introduced: 7/11 & 9/11/06
Passed: October 9, 2006
Approved: October 12, 2006
Effective: November 1, 2006

**ORDINANCE TO AMEND THE
TOWN OF GLEN ECHO CODE
ARTICLES 3, 17, AND 21 TO
PROVIDE BUILDING PERMITS
AND STREET AND SIDEWALK
PERMITS UNDER CERTAIN
CONDITIONS AND ENFORCEMENT**

WHEREAS, the Town of Glen Echo is a municipal corporation of the State of Maryland expressly authorized by 1957 Maryland Code Annotated, Art. 23A, § 2(b)(5) to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, the Town of Glen Echo, as a municipal corporation of the State of Maryland, expressly is authorized by 1957 Maryland Code Annotated, Art. 23A, § 3(b) to provide that violations of its municipal ordinances constitute municipal infractions punishable by a fine not to exceed One Thousand Dollars (\$1,000.00);

WHEREAS, the Town of Glen Echo expressly is authorized by Article IV, § 414(9) of its Charter to make reasonable regulations in regard to buildings to be erected, constructed, reconstructed or razed in the Town; to grant building or demolition permits for the same; and, to formulate a Building Code and to require reasonable charges for building permits;

WHEREAS, the Town of Glen Echo expressly is authorized by Article IV, § 414(35) of its Charter to control the public ways of the Town; and, further is authorized by Article VIII, § 802 of its Charter, subject to the laws of the State of Maryland and the Town Charter, to do whatever it deems necessary to maintain the public ways of the Town;

WHEREAS, the Town of Glen Echo expressly is authorized by Article IV, § 416(b) to provide that violations of its municipal ordinances are municipal infractions punishable by a fine in accordance with state law; and, further is authorized by § 416(c) to institute other appropriate action to prevent, restrain, correct or abate violations of any Town ordinances;

WHEREAS, the Town of Glen Echo expressly is authorized by Article X, § 1004 to do whatever may be necessary to protect Town property and to keep all Town property in good condition;

WHEREAS, the Town Council is desirous generally of updating its Building Code, set forth at Article 3.1 of the Town Code, to reflect current standards, and more specifically to increase the building permit fee, to require a deposit or bond for damage to public facilities, and to increase the penalty for violations of its Building Code; and,

WHEREAS, the Town Council also is desirous of conforming its Building Code with the Streets and Sidewalks provisions of Article 17 of the Town Code; to increase the fee for a streets and sidewalks permit; to require a deposit or bond for damage to public facilities; and, to increase the penalty for violations of its Building Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Glen Echo to amend the Town Building Code, Article 3, and Streets and Sidewalks, Article 17, as follows:

ARTICLE 3
BUILDING CODE

Section 3.1 Building Permits

A. Building Permit Required. No building of any kind or description shall be erected, nor any modification made to the exterior of any portion of an existing building, within the corporate limits of the Town which requires a building permit from Montgomery County, without first having obtained permit for same from the Clerk or the Mayor or Council.

B. Application; Approval. An application for a building permit shall be submitted to the Town Clerk containing the following information. Additional information may be requested by the Mayor. Such application shall be filed with the Town Clerk no later than seven (7) calendar days after issuance of a building permit by Montgomery County for the identical work for which the applicant seeks a permit from the Town of Glen Echo. The Town Council may prepare and require an application form. An application may be denied for failure to provide the requested information. The Town Council, upon written request of the applicant, may waive the time period for submitting the application required pursuant to this paragraph.

The application shall include:

1. The signature of the owner and/or his authorized agent;

2. The street address, plat number and date of subdivision plat recordation of the lot upon which the proposed work is to be performed;
3. The full name and address of each owner;
4. A brief description of the work to be performed for which the building permit is requested;
5. A copy of the building plans and all other documents submitted or anticipated to be submitted to Montgomery County as part of the application for building permit issued by Montgomery County; and,
6. A certification by the applicant that the applicant provided to the owners of adjoining and confronting private properties within the Town of Glen Echo, and to the occupants of said property if the owners are not the occupants (collectively, "neighbors"), a reasonable opportunity to inspect the building permit plans. The certification shall include an explanation of the steps taken to comply with these requirements and to identify those neighbors who have inspected the plans. Unless there are unusual circumstances, initials of those neighbors who have inspected the permit plans are required on the building permit application.

7. An application fee of the greater of ten percent (10%) of the final County permit fee or ten dollars (\$10.00).
8. Photographic proof of the condition of adjoining streets and sidewalks prior to the beginning of construction.

C. Criteria for Issuance of Permit. The Town Council shall consider, in approving or disapproving an application, such factors as:

1. Whether the application is complete and conforms to the requirements of this Regulation;
2. Whether the proposed work complies with the provisions of Chapter 8 of the Montgomery County Code;
3. Whether the proposed work complies with all applicable subdivision and zoning requirements; and,
4. Whether the proposed work complies with all other applicable Town ordinances, including but not limited to all of the provisions of this Article regarding setbacks (Article 3.1.1 through 3.1.6), and all of the provisions of Article 17, Streets and Sidewalks, specifically including the provisions of Section 17.2 which require a separate permit. No permit for any building shall be issued by the Clerk or Mayor or Council

unless the building complies with the setback requirements of the Montgomery County Zoning Code as modified by the Town of Glen Echo Building Code.

In making its findings, the Town Council may rely upon the findings of the County in the issuance of the County permit.

At the request of any one of the following: the applicant, the adjoining or confronting property owners, or the Town Council, a public hearing may be held on the application prior to the issuance of a building permit.

D. Permit Contingent on County Permit. The Town of Glen Echo Building Permit is effective and valid only for the identical work authorized by a valid Building Permit issued by Montgomery County and only for that time period for which the Montgomery County Permit is valid.

E. Judicial Review. Any person aggrieved by a decision of the Town Council with regard to an application for a building permit filed under the provisions of this Section and who appeared before the Town Council in person, by an attorney, or in writing, shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200 of the Maryland Rules of Procedure.

F. Liability for Damage to Town of Glen Echo Property. As a condition for the grant of a permit, the permit holder shall be liable for any damage to Town of Glen Echo property, including rights of way, sidewalks, curbs, streets and green

space. Permit holders shall be subject to the expense necessary to repair such damage as close to the original condition as possible. The Town may, by contract or otherwise and at the violator's expense, cause any necessary repairs to be made. The Town Council, in its discretion, may require as a precondition to issuance of a permit the posting of a bond or other security in a form and amount satisfactory to the Mayor (which amount shall not exceed twice the estimated cost of repair of damage caused to Town of Glen Echo property), to be applied toward the cost of repair of damage caused to Town of Glen Echo property.

G. Violation of Building Permit Requirement.

1. Violation of any requirement of this Section of the Building Code shall constitute a municipal infraction. Any person, including an owner of property, any agent, any contractor for such owner, and any person performing work on or about the owner's property, that violates a provision of this Section shall be subject to a fine of Five Hundred Dollars (\$500.00) for each violation. Each day that the violation continues may be considered a further and separate offense subject to such fine.

2. In addition to any other fine, penalty, or remedy, a violator may be required to remove or restore, within fifteen (15) days of the date of notification of the violation, any structure, alteration, addition or excavation, erected or commenced, and constituting the basis of the violation, and if so required, upon expiration of such fifteen (15) days, each additional day during which that person shall not have so removed or restored the same, shall constitute a further and separate violation subject to such fine.

3. The Town also may abate any such condition at the violator's expense.

4. In addition to any other fine, penalty, or remedy, the Town may seek in a court of competent jurisdiction, to enjoin any violation of this Section of the Building Code and may recover from any violator the costs of such action, including reasonable attorney's fees.

H. Misdemeanor. It shall be a misdemeanor, subject to the provisions of Article 21 of this Code, to commit any act in violation of this Section of the Building Code with respect to any structure for which a building permit was sought and denied; to commit any act in violation of this Section with respect to any structure for which a building permit is pending; and, to commit any other violation of this Section with actual knowledge that such act violates this Section.

ARTICLE 17

STREETS AND SIDEWALKS

Section 17.2(A) Permit Required.

It shall be unlawful for any person to begin to construct, reconstruct, repair, alter, dig up, cut, break, destroy, or grade any streets, sidewalks, curb, curb-cut driveway, pavement, culvert or drain pipe, ditch, traffic control sign or marking, streetlight, utility pole, or other facility within the public place of the Town without obtaining a permit from The Town of Glen Echo. All permits to perform work in public places shall be authorized by a majority vote of the Town Council and shall be issued by the Clerk-Treasurer upon notification of such authorization by the Mayor. Photographic proof of the condition of existing streets, sidewalks and/or curbs shall be provided to the Clerk-Treasurer prior to the beginning of construction. All work performed and materials used in construction pursuant to this permit shall meet State of Maryland standards for residential driveway entrances, streets, sidewalks, curbs and/or aprons.

(B) Permit Fee; Performance Bond. The fee for a street and sidewalk permit under this Section shall be One Hundred Dollars (\$100.00), except that there shall be no fee for a street and sidewalk permit if the applicant files an application for such permit in connection with an application for a building permit under Article 3, Section 3.1 of this Code for which a One Hundred Dollar (\$100.00) application fee is paid. The Town Council, in its discretion, may require as a precondition to issuance of a permit the posting of a bond or other security in a form and amount satisfactory to the Mayor (which amount shall not exceed twice the estimated cost of repair of damage caused

to Town of Glen Echo property), to be applied toward the cost of repair of damage caused to Town of Glen Echo property.

(C). Enforcement and Penalties.

1. Violation of any requirement of this Article shall constitute a municipal infraction. Any person, including an owner of property, any authorized or unauthorized agent, any contractor for such owner, and any person performing work on or about the owner's property, that violates a provision of this Article shall be subject to a fine of Five Hundred Dollars (\$500.00) for each violation. Each day that the violation continues may be considered a further and separate offense subject to such fine.

2. In addition to any other fine, penalty, or remedy, a violator may be required to remove or restore, within fifteen (15) days of the date of notification of the violation, any structure, alteration, addition or excavation, erected or commenced, and constituting the basis of the violation, and if so required, upon expiration of such fifteen (15) days, each additional day during which that person shall not have so removed or restored the same, shall constitute a further and separate violation subject to such fine.

3. The Town also may abate any such condition at the violator's expense.

4. In addition to any other fine, penalty, or remedy, the Town may seek in a court of competent jurisdiction, to enjoin any violation of this Article and may recover from any violator the costs of such action, including reasonable attorney's fees.

(D). Misdemeanor. It shall be a misdemeanor, subject to the provisions of Article 21 of this Code, to commit any act in violation of this Article with respect to any structure for which

a street and sidewalk permit was sought and denied; to commit any act in violation of this Article with respect to any structure for which a street and sidewalk permit is pending; and, to commit any other violation of this Article with actual knowledge that such act violates this Article.

Section 17.9 Penalties.

Any person violating any of the provisions of this ordinance shall be subject to the penalties stipulated under Article 21, in addition to any remedy available to the Town as provided in any specific provision of this Article.

ARTICLE 21

PENALTIES

Any person, firm or corporation violating any of the provisions of this Code of Ordinances for The Town of Glen Echo shall be deemed liable for a municipal infraction or guilty of a misdemeanor. Upon citation for a municipal infraction for which a penalty is not assigned elsewhere, the violator shall be subject to a fine of Five Hundred Dollars (\$500.00).

Upon conviction for a misdemeanor, the violator shall be fined or imprisoned or be both fined and imprisoned as specified in the particular provision or article violated. Such person, firm or corporation shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00), or be imprisoned in the Montgomery County Jail for a period not exceeding thirty (30) days, or be both so fined and imprisoned. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

PASSED:

TOWN COUNCIL

BY: _____

APPROVED

Deborah M. Beers, Mayor

Date